

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CONAIR CORPORATION,

Plaintiff,

V.

**JARDEN CORPORATION, and SUNBEAM
PRODUCTS, INC. D/B/A JARDEN CONSUMER
SOLUTIONS,**

Defendants.

$$X$$

ECF CASE

Civil Action No. 13-cv-6702-AJN

District Judge Alison J. Nathan

**DEFENDANTS JARDEN CORPORATION'S AND SUNBEAM
PRODUCTS, INC.'S D/B/A/ JARDEN CONSUMER SOLUTIONS' ANSWER
TO PLAINTIFF CONAIR CORPORATION'S FIRST AMENDED COMPLAINT**

Defendants Jarden Corporation ("Jarden") and Sunbeam Products, Inc. d/b/a Jarden Consumer Solutions ("Sunbeam") hereby respond to and answer the allegation of Plaintiff Conair Corporation's ("Conair") First Amended Complaint as follows:

THE PARTIES

1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the First Amended Complaint, and therefore deny the same.

2. Defendants admit that Jarden Corporation is a Delaware corporation; but deny the remaining allegations of paragraph 2 of the First Amended Complaint.

3. Defendants admit that Sunbeam Products, Inc. is doing business as Jarden Consumer Solutions and is a wholly owned subsidiary of Jarden Corporation and is headquartered at 2381 N.W. Executive Center Drive, Boca Raton, Florida, 33431, and that Sunbeam is in the business of marketing, distributing, and selling in the State of New York and

throughout the United States consumer products including Mr. Coffee® products; but deny the remaining allegations of paragraph 3 of the First Amended Complaint.

4. Defendants deny the allegations of paragraph 4 of the First Amended Complaint.

NATURE OF THE ACTION

5. Defendants admit that this is an action arising under the Patent Laws of the United States alleging infringement of one or more claims of U.S. Patent No. 5,473,972 ("the '972 Patent"); but deny the remaining allegations of paragraph 5 of the First Amended Complaint.

6. Defendants admit that Sunbeam imports, offers for sale, and/or sells espresso, cappuccino, and/or latte makers branded as Mr. Coffee® Café Barista, having model number BVMC-ECMP1000, and that such products are marketed and sold by Sunbeam in the State of New York and throughout the United States; but deny the remaining allegations of paragraph 6 of the First Amended Complaint.

7. Defendants deny the allegations of paragraph 7 of the First Amended Complaint.

JURISDICTION AND VENUE

8. Defendants admit the allegation of paragraph 8 of the First Amended Complaint.

9. Defendants do not dispute personal jurisdiction solely for the purposes of this case; but deny the remaining allegations of paragraph 9 of the First Amended Complaint.

10. Defendants do not dispute personal jurisdiction solely for the purposes of this case; but deny the remaining allegations of paragraph 10 of the First Amended Complaint.

11. Defendants do not contest that venue is proper in this Court solely for the purposes of this case; but deny the remaining allegations of paragraph 11 of the First Amended Complaint.

THE PATENT-IN-SUIT
(THE '972 PATENT)

12. Defendants repeat, reallege, and incorporate by references, their responses to paragraphs 1-11 of the First Amended Complaint as if fully set forth herein.

13. Defendants admit that the United States Patent and Trademark Office issued the '972 Patent on December 12, 1995, naming Leandro P. Rizzuto, Theodore B. Mullé, and Asik Braginsky as the inventors, and that a true and correct copy of the '972 Patent is attached to the Complaint as Exhibit A; as to the remaining allegations of paragraph 13 of the First Amended Complaint, Defendants lack knowledge or information sufficient to form a belief as to the truth of such allegations, and therefore deny the same.

14. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations of paragraph 14 of the First Amended Complaint, and therefore deny the same.

15. Defendants admit that in 2005, Jarden acquired Sunbeam and that Sunbeam imports, offers to sell, and sells in the United States, espresso, cappuccino, and/or latte makers under the Mr. Coffee® brand; but deny the remaining allegations of paragraph 15 of the First Amended Complaint.

16. Defendants admit that on April 25, 2013, Conair notified Sunbeam that certain espresso, cappuccino, and/or latte makers sold under the Mr. Coffee® Café Barista brand name, allegedly infringe the '972 Patent; but deny the remaining allegations of paragraph 16 of the First Amended Complaint.

17. Defendants admit that Sunbeam had knowledge of the existence of the '972 Patent before the filing of the Complaint; but deny the remaining allegations of paragraph 17 of the First Amended Complaint.

18. Defendants admit the allegations of paragraph 18 of the First Amended Complaint.

19. Defendants deny the allegations of paragraph 19 of the First Amended Complaint.

**FIRST COUNT FOR RELIEF
(INFRINGEMENT OF THE '972 PATENT)**

20. Defendants repeat, reallege, and incorporate by reference their responses to paragraphs 1-19 as if fully set forth herein.

21. Defendants deny the allegations of paragraph 21 of the First Amended Complaint.

22. Defendants deny the allegations of paragraph 22 of the First Amended Complaint.

23. Defendants deny the allegations of paragraph 23 of the First Amended Complaint.

24. Defendants deny the allegations of paragraph 24 of the First Amended Complaint.

25. Defendants deny the allegations of paragraph 25 of the First Amended Complaint.

26. Defendants deny the allegations of paragraph 26 of the First Amended Complaint.

27. Defendants deny the allegations of paragraph 27 of the First Amended Complaint.

28. Defendants deny the allegations of paragraph 28 of the First Amended Complaint.

29. Defendants deny the allegations of paragraph 29 of the First Amended Complaint.

30. Defendants deny the allegations of paragraph 30 of the First Amended Complaint.

AFFIRMATIVE DEFENSES

31. The First Amended Complaint fails to state a claim upon which relief can be granted.

32. Defendants have not infringed, do not infringe, will not infringe, either directly or indirectly, have not induced infringement, nor have contributorily infringed, any valid claim of U.S. Patent No. 5,473,972.

33. Defendants reserve the right to assert such other defenses as raised during discovery in this case.

PRAYER FOR RELIEF

WHEREFORE, Defendants pray for the following relief:

- A. That Plaintiff take nothing by way of the Complaint herein;
- B. That the Complaint be dismissed with prejudice against Defendants;
- C. That Defendants recover their reasonable attorney fees and costs of suit incurred herein; and
- D. For such other and further relief as this Court may deem necessary and just.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Defendants hereby demand a trial by a jury on all issues so triable.

Respectfully submitted,

Dated: August 26, 2014

By: s/ Robert B. Hander
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CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 1.6(a)

The undersigned hereby certifies, pursuant to Local Civil Rule 1.6(a), that with respect to the matter in controversy herein, neither Defendants Jarden Corporation and Sunbeam Products, Inc. d/b/a/ Jarden Consumer Solutions nor Defendants Jarden Corporation's and Sunbeam Products, Inc. d/b/a/ Jarden Consumer Solutions' attorney is aware of any other action pending in any court, or of any pending arbitration or administrative proceeding, to which this matter is subject.

Dated: August 26, 2014

LERNER, DAVID, LITTENBERG,
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